

By: Ellis

S.B. No. 228

A BILL TO BE ENTITLED

AN ACT

relating to public access to underwriting guidelines used by insurers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.002, Insurance Code, is amended to read as follows:

Sec. 38.002. PUBLIC ACCESS TO INSURER UNDERWRITING GUIDELINES [~~, CONFIDENTIALITY~~]. (a) In this section:

(1) "Insurer" means an insurance company or other entity authorized to engage in the business of insurance in this state, including:

(A) a county mutual insurance company;

(B) a farm mutual insurance company;

(C) a Lloyd's plan; and

(D) a reciprocal or interinsurance exchange.

(2) "Underwriting guideline" means a rule, standard, marketing decision, or practice that is used by an insurer or an agent of an insurer to examine, bind, accept, reject, cancel, or limit insurance coverage to groups of consumers of insurance.

(b) Each insurer shall submit to the [The] department, in the form prescribed by the department, [or the office of public insurance counsel may obtain] a copy of the [an] insurer's underwriting guidelines.

(c) [~~(b)~~] Underwriting guidelines are public information

1 ~~[confidential, and the department or the office of public insurance~~
2 ~~counsel may not make the guidelines]~~ available to the public under
3 Chapter 552, Government Code.

4 ~~[(c) The department or the office of public insurance~~
5 ~~counsel may disclose to the public a summary of an insurer's~~
6 ~~underwriting guidelines in a manner that does not directly or~~
7 ~~indirectly identify the insurer.~~

8 ~~[(d) When underwriting guidelines are furnished to the~~
9 ~~department or the office of public insurance counsel, only a person~~
10 ~~within the department or the office of public insurance counsel~~
11 ~~with a need to know may have access to the guidelines. The~~
12 ~~department and the office of public insurance counsel shall~~
13 ~~establish internal control systems to limit access to the~~
14 ~~guidelines and shall keep records of the access provided.~~

15 ~~[(e) This section does not preclude the use of underwriting~~
16 ~~guidelines as evidence in prosecuting a violation of this code.~~
17 ~~Each copy of an insurer's underwriting guidelines that is used in~~
18 ~~prosecuting a violation is presumed to be confidential and is~~
19 ~~subject to a protective order until all appeals of the case have~~
20 ~~been exhausted. If an insurer is found, after the exhaustion of all~~
21 ~~appeals, to have violated this code, a copy of the underwriting~~
22 ~~guidelines used as evidence of the violation is no longer presumed~~
23 ~~to be confidential.~~

24 ~~[(f) A violation of this section is a violation of Chapter~~
25 ~~552, Government Code.]~~

26 SECTION 2. Section 552.110, Government Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) This section does not apply to an underwriting guideline
2 made public information under Section 38.002, Insurance Code.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2003.